

In the Matter of Dino Colarocco,
Assistant Public Works Superintendent,
Township of Freehold
DOP Docket No. 2004-2784
(Merit System Board, decided September 8, 2004)

The Township of Freehold requests administrative relief in order to process the Intergovernmental Transfer of Dino Colarocco from the title of Senior Public Works Inspector, Hamilton Township, to the title of Assistant Public Works Superintendent, Township of Freehold.

By way of background, the Intergovernmental Transfer Pilot Program was established, effective September 1, 1999 and running through August 31, 2000, to permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Department of Personnel. Transfers have only been considered for titles that are identical or functionally equivalent. Thereafter, the Merit System Board adopted, at its meeting on October 10, 2001, new rules and rule amendments to permit such employee movements. These rule changes took effect upon publication in the *New Jersey Register* on November 19, 2001.

Consistent with the above-noted rule changes, *N.J.A.C. 4A:4-7.1A(c)* provides, in pertinent part, that a transferred employee shall be moved to a title substantially at the same level. However, where the title to which the employee is transferring is different from that held on a permanent basis in the sending jurisdiction, the receiving jurisdiction is required to request that the Department of Personnel approve the title, based on the following criteria: 1) the titles(s) shall have substantially similar duties and responsibilities; 2) the education and experience requirement for the title(s) are the same or similar and the mandatory requirements of the new title shall not exceed those of the former title; 3) there shall be no special skills, licenses, certification or registration requirements for the new title which are not also mandatory for the former title; and 4) any employee in the former title can, with minimal training and orientation, perform the duties of the new title by virtue of having qualified for the former title. *See N.J.A.C. 4A:4-7.1A(c)2*. In short, the rules allow movement between different titles provided that the transfer meets the conditions noted above.

In the present matter, the Township of Freehold sought to transfer Dino Colarocco from the title of Senior Public Works Inspector with Hamilton Township to the title of Assistant Public Works Superintendent. Mr. Colarocco, Hamilton Township, and the Township of Freehold reached agreement as to the terms of the transfer. However, in the absence of a request for administrative relief, the Office of Intergovernmental Services would be unable to process this request to transfer on the basis that the transfer involves a change to a functionally dissimilar job title.

In support of its request to the Merit System Board, Thomas Antus, Freehold Township Administrator, states that Mr. Colarocco's current duties as the Assistant Public Works Superintendent with the Township consist of daily supervision of the Street and Assistant Street Superintendent along with other personnel in the Department of Public Works.¹ Additionally, his duties include writing specifications and preparing bids, interacting with residents, preparing a curb inventory list, and performing road inspections. Further, in his position with Hamilton Township, Mr. Colarocco gave assignments and instructions to individuals and groups of employees and supervised their work in such things as construction, maintenance, and repair of streets. Moreover, he investigated complaints, ensured proper safety precautions were taken, prepared reports, and inspected and checked all work in process. As such, the Township of Freehold maintains that Mr. Colarocco has performed duties consistent with those required of an Assistant Public Works Superintendent.

Mr. Colarocco states that he was employed by Hamilton Township for 19 years, 17 as a Public Works Inspector, and the last five as a Senior Public Works Inspector. Mr. Colarocco maintains that during his tenure as a Senior Public Works Inspector, his responsibilities included assigning duties to other inspectors, supervising their work, and following up with the completion of public and private projects. Further, he states that since starting with the Township of Freehold, he has been supervising the Road Superintendent and his assistant. Mr. Colarocco concedes that his situation does not demonstrate a "title to title" transfer, but that there are quite a few similarities between the titles and he has always assisted and supervised employees within Hamilton Township.

It is noted that the job specification for Assistant Public Works Superintendent defines the job as: "Under direction assists the Public Works Superintendent in performing administrative and supervisory duties in planning and organizing the installation, maintenance, and repair of various public works facilities; does related work as required." The requirements for the title are four years of supervisory experience in the construction, maintenance, and repair of streets, in sewer, water, sanitation, or other public work facilities, or in similar heavy construction or maintenance work. The job specification for Senior Public Works Inspector defines that job as: "Under direction, performs the more difficult, complex, and responsible tasks involved in making field inspections of a variety of public works construction projects to ensure compliance with plans, specifications, and standards of workmanship, and/or takes the lead over other public works inspectors in the performance of their work; does other related duties as required." The requirements for the title are two years of inspection experience of the construction of public works facilities such as roads, water mains, or sewer lines, for compliance with plans, specifications, quality of workmanship, materials used, and adherence to safety regulations or in the construction or installation of roads, water mains, sewer lines, or similar public works construction activities involving the reading and interpretation of blueprints, plans, specifications, and engineering drawings or

¹ Although the Office of Intergovernmental Services could not process the transfer, Mr. Colarocco has been employed by the Township of Freehold since February 2004 as an Assistant Public Works Superintendent.

surveying techniques directly related to public works construction or some combination thereof.

CONCLUSION

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Department of Personnel. Although the terms of transfer of Mr. Colarocco from his Senior Public Works Inspector position with Hamilton Township to the Township of Freehold were agreed to by the transferring agency, the receiving agency and the transferring employee, the transfer cannot be approved by the Department of Personnel in the absence of granting administrative relief on the basis that the transfer required a title change and the duties of a Senior Public Works Inspector are different than those of an Assistant Public Works Superintendent.

The rules do not proscribe transfers from one title to another, however, the application of such a transfer was intended only for those titles whose functions were substantially similar. The anticipated circumstances under which these inter-title transfers would arise included movement from a State title to a local title where the title held in State service did not exist in the local service. For example, the Board permitted an intergovernmental transfer from the State title Personnel Management Analyst 2 to the local title Assistant Personnel Officer. In that case, both titles involved personnel and program administration. *See In the Matter of Frank J. Tragno, Jr., Monmouth County* (MSB, decided June 16, 1998).

While the duties of the Senior Public Works Inspector and Assistant Public Works Superintendent titles are not the same, the Township of Freehold confirms Mr. Colarocco's supervisory experience with employees engaged in construction, maintenance, and repair of streets. A review of Mr. Colarocco's personnel record indicates that he was appointed as a Senior Public Works Inspector in October 1998 and served in that title until he was employed by the Township of Freehold in February 2004. In this regard, it is noted that incumbents in the Senior Public Works Inspector title may take the lead over Public Works Inspectors, review their reports, and give them suitable assignments and instructions. Moreover, there is a logical nexus between the duties one performs in the Senior Public Works Inspector title and the skills required of incumbents in the Assistant Public Works Superintendent title. Indeed, ensuring compliance with plans, specifications and standards of workmanship of various public works would certainly provide the kind of background one needs to serve as an Assistant Public Works Superintendent. As such, Mr. Colarocco has the required four years of supervisory experience needed to establish eligibility as an Assistant Public Works Superintendent.

N.J.A.C. 4A:4-7.1A(a) provides, in pertinent part, that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes. In this matter, it is noted that the rules allow movement only between identical titles or titles that are functionally equivalent.

The job specifications delineate differences in the duties between the two titles in question. Additionally, the Board notes its concern with the fact that Mr. Colarocco has been serving with the Township of Freehold in the capacity of Assistant Public Works Superintendent despite the fact that the Office of Intergovernmental Services (IGS) could not process the transfer. As the Township notes in its request, the purpose of the Intergovernmental Transfer Program is to promote more efficient public service by allowing Merit System jurisdictions to share talented and experienced individuals. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal approval by IGS could seriously circumvent the civil service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation. Nevertheless, based on the particular circumstances presented in this case, including the staffing needs of the Township, the fact that the supervisory duties performed by Mr. Colarocco were sufficiently similar to the duties and functions of an Assistant Public Works Superintendent, and that Mr. Colarocco has been satisfactorily performing the duties with the Township of Freehold since February 2004, ample cause exists to provide administrative relief to permit the permanent transfer of Mr. Colarocco to the Township of Freehold.

ORDER

Therefore, it is ordered that the request, seeking to allow the transfer of Dino Colarocco from Hamilton Township to the Township of Freehold, be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.